

[House Passes Sweeping Patent-Reform Legislation](#) (National Journal – June 24, 2011)

By Josh Smith

After a week of frantic legislative wrangling, the House of Representatives approved historic patent-reform legislation on Thursday, overcoming opposition from some original supporters who opposed 11th hour changes to the bill. The bill's sponsor, House Judiciary Chairman Lamar Smith, R-Texas, was able to appease House appropriators and win passage, 304-117, a week after it was originally scheduled for a vote. If the bill becomes law, it would be the first major overhaul of the patent system in more than 50 years. The drawn-out process mirrored debate in the Senate, where lawmakers complained about a range of arcane issues before finally passing patent legislation overwhelmingly. The House approved six minor amendments, as well as a manager's amendment, before shooting down seven other amendments, including proposals that would have stripped a controversial provision that critics say exempts banks from some patent rules. One other amendment was withdrawn. "Today's vote is a victory for America's innovators and job creators who rely on our patent system to develop new products and grow their businesses," Smith said. "The America Invents Act is the most significant jobs-creation bill passed by Congress this year." Smith's bill won the support of Republican House leadership and passed with a wide margin. But last-minute changes to the bill left original supporters feeling slighted and raised questions about reconciling the measure with a similar bill, which passed the Senate 95-5 in March. In order to win over House appropriators, who feared that the bill's original language would have given the Patent and Trademark Office too much control over its fees, Smith offered a manager's amendment that establishes a fund for excess PTO fees to be controlled by Congress. The amendment easily passed but the deal infuriated Democrats and some industry groups who had supported the original bill. Rep. **Mel Watt**, D-N.C., ranking member of the Judiciary Intellectual Property Subcommittee, said the amendment amounted to a bait-and-switch, leading to a bill that would not stop Congress from using PTO funds for other programs. "We passed a bill out of our Judiciary Committee that would end that diversion, and all of a sudden we come to the floor and a manager's amendment is being offered that, if it is not defeated, will undermine that unifying thing that has held the groups together and allowed people to support the bill," **Watt** said. And the amended House legislation is already sparking concern in the White House and Senate. Sen. Tom Coburn, R-Okla., pushed for the anti-fee-diversion

language to be added in the Senate bill. On Thursday he announced his opposition to the House version, which he said undermined the bill's protections. "Unfortunately, the Appropriations Committee has a poor record of managing such accounts responsibly and honestly in this area and others," Coburn said in a statement. "For instance, the Appropriations Committee has stolen billions from the Crime Victims' Fund and other funds. There is no reason to believe they won't continue to do the same with the patent account." In an official statement of administration policy, the White House said it supports the overall bill, but voiced concern over the changes to the fee-diversion provision. But the sponsor of the Senate bill, Judiciary Chairman Patrick Leahy, D-Vt., has signaled he won't let the changes stand in the way of sending the bill to the White House. "The House-passed bill differs slightly from what the Senate approved overwhelmingly in March, but the core reforms are consistent," Leahy said in a statement. "Just as the Senate did when it passed the America Invents Act in a significant 95-5 vote, we should come together and approve this bill once again, and send it to the president's desk to be signed into law." Industry groups were divided over the bill, with some major tech companies such as IBM, Google, and Apple praising its passage, and others, such as the Innovation Alliance, which represents smaller tech companies, vowing to push for stronger anti-fee-diversion provisions. Among other changes, the bill transitions the United States to a "first-to-file" system, under which the inventor who files an application first is awarded a patent.